

MAY 13 1974

Mr. Charles R. Adams, Jr.
City Attorney
City of Fort Valley
Fort Valley, Georgia 31030

Dear Mr. Adams:

This is in reference to the Georgia Assembly's 1965 Amendment to the City Charter of Fort Valley, 1965 Georgia Laws 2526, submitted to the Attorney General pursuant to Section 5 of the Voting Rights Act of 1965. Your submission was received March 12, 1974.

After careful consideration of your submission and the additional information you have provided, Fort Valley's election history and demographic characteristics and recent court decisions in voting rights cases, we are unable to conclude that implementation of the majority requirement and the numbering of the city council and utilities commission posts does not have a racially discriminatory effect. Our analysis demonstrates that under Fort Valley's original charter system of at-large plurality elections minority race voters have the potential to elect a candidate of their choice through the use of single-shot voting whereas this potential is lost if candidates must restrict their candidacies to a single, specific post and must receive more than half of the votes cast.

In comparable situations recent court decisions indicate that numbered posts and a majority requirement may effectively operate as a dilution of minority voting strength. Georgia v. United States, 411 U.S. 526 (1973); Graves v. Barnes, 343 F. Supp. 704 (N.D. Tex. 1972), aff'd, White v. Regester, 412 U.S. 753 (1973); Dunston v. Scott, 336 F. Supp. 206 (E.D. N.C. 1972); Sims v. Amos, 336 F. Supp. 924 (N.D. Ala. 1972). Accordingly, I must interpose an objection on behalf of the Attorney General to the submitted charter amendment, so long as city officials are elected at-large.

The Attorney General is, however, cognizant of the legitimate city interests which the amendment was intended to serve and that, in the context of other than at-large elections, the amendment's implementation may not adversely affect minority voting rights. Should Fort Valley adopt and obtain Section 5 pre-enforcement clearance for implementation of a racially neutral election system, such as district representation, the Attorney General will, if requested, re-evaluate the racial effects, if any, of implementation of numbered posts and a majority requirement. City of Petersburg, Virginia v. United States, 354 F. Supp. 1021 (D.D.C. 1972), aff'd, 413 U.S. 962 (1973).

Section 5 of the Voting Rights Act of 1965 provides that in addition to review by the Attorney General, the submitting authority may institute an action in the United States District Court for the District of Columbia for a declaratory judgment that changes in election laws do not have the purpose and will not have the effect of denying or abridging the right to vote on account of race or color, and, of course, you continue to have this alternative.

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If you have any further questions or information which you wish to bring to the attention of this Department, please do not hesitate to contact me or Sandra Lynn Reber at 202--739-3139.

Sincerely,

J. STANLEY POTTINGER
Assistant Attorney General
Civil Rights Division